IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

JERMAINE DOCKERY, ET AL. PLAINTIFFS

VS. CIVIL ACTION NO. 3:13CV326WHB-JCG

PELICIA HALL, ET AL. DEFENDANTS

TRIAL TRANSCRIPT
VOLUME 23

BEFORE THE HONORABLE WILLIAM H. BARBOUR, JR.
UNITED STATES DISTRICT JUDGE
MARCH 21, 2018
MORNING SESSION
JACKSON, MISSISSIPPI

REPORTED BY: CHERIE GALLASPY BOND

Registered Merit Reporter
Mississippi CSR #1012

501 E. Court Street, Ste. 2.500
Jackson, Mississippi 39201
(601) 608-4186

*** DAILY TRANSCRIPT ***

APPEARANCES

FOR THE PLAINTIFFS:

MR. JODY E. OWENS
MS. ANNA Q. HAN
MS. ERIN MONJU
MS. ELISSA JOHNSON
MR. ERIC GORDON BALABAN
MR. RAVI DOSHI
MS. REKHA ELAINE ARULANANTHAM
MR. BENJAMIN R. SALK
MS. CHELSEA K. CAVENY

COUNSEL FOR DEFENDANTS:

MR. WILLIAM T. SILER, JR.
MR. NICHOLAS F. MORISANI
MS. MOLLY MITCHELL WALKER
MR. MICHAEL J. BENTLEY
MR. J. WILLIAM MANUEL
MS. KRISSY C. NOBILE

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(Court Called to Order)

THE COURT: Ms. Monju, ready to proceed?

MS. MONJU: Yes, Your Honor. Plaintiffs call Gloria Perry.

THE COURT: Where is Ms. Perry?

(Witness Sworn)

THE COURT: All right. Ms. Monju, you may proceed.

DR. GLORIA PERRY,

having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. MONJU:

Q Good morning, Dr. Perry.

A Good morning.

Q Okay. Could you state your name for the record.

A Gloria Perry.

Q You are MDOC's chief medical officer?

A That's correct.

Q You've been MDOC's Chief medical officer since 2008?

A Yes, sir.

Q You're also a medical doctor?

A Yes.

Q As chief medical officer, you report directly to the commissioner?

A Yes.

Q And as chief medical officer, you were responsible for

overseeing all medical and mental health care that is provided to MDOC prisoners?

A That's correct.

Q And that includes overseeing on site care provided by private contractors in the prisons?

A Yes.

Q And that also includes coordinating specialty care with offsite physicians like oncologists, for example?

A That's correct.

Q And you also monitor care that is provided when prisoners are hospitalized?

A Yes.

Q I want to talk about your access to information in this case for just a few minutes. So, for example, you read a report issued by a Dr. Terry Kupers in 2011 regarding conditions at EMCF. Is that right?

A I don't recall reading a report from Dr. Kupers. I read a report from Dr. Stern and Dr. Gage.

Q Do you recall testifying at your deposition in June 2017 that you had read a report by Dr. Terry Kupers back around 2011?

A I don't recall that, no.

Q You testified at your deposition and I'm just going to read it to you quickly that, "I read a report by Dr. Kupers several years ago. I don't recall what year that was, but it was

several years ago."

And the question was, "Dr. Kupers has issued several reports regarding MDOC. Do you recall if that report was related to EMCF or was it in 2014 or before 2014?"

And you responded, "It was before 2014?"

And the question was, "Would it sound right if I told you it might have been a report that I he produced in 2011 about the *Presley* litigation?"

And you said, "That sounds right, yes."

A Okay.

Q Do you recall testifying to that?

A Yes.

Q And so do you recall reading a report by Dr. Terry Kupers around 2011?

A Yes. It was a long time ago.

Q It was. Okay. Great. I'd like to show you that report. Just one moment.

MS. MONJU: Your Honor, I just want to point out that the screen appears to be having some difficulties this morning. I don't know if that's the case on your screen as well.

I can proceed, Your Honor, while we're addressing that, if you like.

THE COURT: I would like for to you proceed. That would help us.

MS. MONJU: Will, Your Honor. Your Honor, permission

to approach the witness?

THE COURT: Pardon? Yes.

MR. BENTLEY: Your Honor, Mike Bentley for the defendants. I'm going to object to questioning Dr. Perry about Dr. Kupers' 2011 report. If I recall, you sustained an objection to Dr. Kupers testifying about his 2011 opinions because they weren't relevant to this case, and I do not think that they should be permitted to ask Dr. Perry to testify about his opinions either.

MS. MONJU: Your Honor, if I may respond?

THE COURT: Yes. I need to ask first is that where your testimony is -- is that where your questioning is headed?

MS. MONJU: We will ask Dr. Perry just a couple of questions about what she read in this report, and that's strictly for the purpose that Dr. Perry -- in Dr. Kupers' 2011 report, he included a number of findings about EMCF that are still the same conditions plaintiffs assert are occurring today. And the point will be that Dr. Perry was aware of these conditions as early as 2011. It goes to notice. And that will be critical for the deliberate indifference claim.

THE COURT: Anything further?

MR. BENTLEY: No, Your Honor, other than even if that's the purpose, I think the effect is to get Dr. Kupers' opinions in through this witness which you've already sustained an objection to.

THE COURT: Overrule the objection. I can handle the effect myself.

MR. BENTLEY: I understand.

MS. MONJU: Thank you, Your Honor.

BY MS. MONJU:

Q Dr. Perry, this is Dr. Kupers' 2011 report regarding EMCF. Correct?

A I'd have to take your word for it. I don't know.

Q Well, if I could, see it says "February 7, 2011" up here, up top.

A Yes.

Q It says "Dr. Terry Kupers" at the top.

A Yes.

Q And the first line is, "Dear Deputy Commissioner Sparkman." Would that be MDOC Deputy Commissioner Emmitt Sparkman?

A Retired, yes.

Q Retired. Okay. And then it says, "I'm writing to summarize our discussion about EMCF."

A Okay.

Q So this is the report from Dr. Kupers you would have reviewed?

A I don't remember reading this report or this particular letter, quite honestly.

Q But you did testify that you read this report in your June 20th, 2017, deposition?

A I said I read a report. I don't know if this was the report. I don't recall from my memory ever reading this.

Q Understood. If I represent to you that there is no other report by Dr. Terry Kupers from 2011 about EMCF, would you have any reason to dispute that representation?

A No.

MS. MONJU: Your Honor, I move to admit Plaintiffs' Exhibit 2744 into evidence.

MR. BENTLEY: Your Honor, I object to the admission of this exhibit into evidence. This is Dr. Kupers' report, not Dr. Perry's, and she said she has no recollection of reading it.

THE COURT: I sustain the objection. Dr. Kupers' report of 2011 is not material to this case. It may be material to what this lady knew at that time.

MS. MONJU: Your Honor, if I may be heard on that point very quickly.

THE COURT: Pardon?

MS. MONJU: If I may be heard on point -- on the objection.

THE COURT: Yes.

MS. MONJU: The only point -- the reason we would want to admit this report is not for the truth of the matter asserted in Dr. Kupers' report. We would like to admit this exhibit because it shows what Dr. Perry was aware of in 2011.

THE COURT: That's what I just said.

MS. MONJU: So, your Honor, may we admit that exhibit for that purpose?

THE COURT: Ask her whether that's what she knew in 2011. You don't have to admit an extraneous document to do that.

MS. MONJU: Yes, Your Honor.

BY MS. MONJU:

Q So, Dr. Perry, you said this morning that you did read at least two other expert reports filed in this case in December 2016. Is that right?

A That's correct.

Q That includes a report by Dr. Marc Stern?

A Yes.

Q And that also includes a report by Dr. Bruce Gage?

A Yes.

Q And do you recall you testified at your deposition that you also reviewed the report by Dr. Terry Kupers?

A You just read it to me so I guess I said it, but I don't remember reading this.

THE COURT: Will you speak up a little bit --

THE WITNESS: Yes, sir.

THE COURT: -- please.

BY MS. MONJU:

Q And you believed that some of the findings -- some of the

findings in those reports were accurate. Correct?
A Some were accurate; some were not accurate.
Q Okay. Have you read the report by Dr. Marc Stern that he filed in this case in 2014?
A I don't recall reading that one.
Q Were you aware that he filed a report in 2014?
A I'm sure that I was, yes.
Q You're sure you were aware of his 2014 report. Were you also aware of Dr. Kupers' 2014 report?
A No.
Q Were you not aware that Dr. Kupers filed a report in this case in 2014?
A Not that I'm aware of, no.
Q Were you monitoring whether reports were filed in this case?
A No, I was not.
Q Have you read any reports by Madeleine LaMarre in this case?
A I have not. I read Dr. Stern's report that referred to her report.
Q But you did not read her report?
A Correct.
THE COURT: Ms. Monju, you are taking the same tack that your colleagues have taken by trying to prove that a witness is not telling the truth before you even ask what the

witness' present testimony is. You're asking did you read a report because you stated to me that you wanted to prove that she knew things that happened in -- that were -- about conditions that existed in 2011.

Why don't you get first to what the conditions are now and then ask her. What you are doing is impeaching testimony that she has not given.

MS. MONJU: Yes, Your Honor.

THE COURT: Ask her what her present knowledge is and then you can ask her was that -- did that exist in 2011, and then you can impeach her with these reports that are not otherwise material to this case.

MS. MONJU: Yes, Your Honor. I will move it along, and if I may just state for the record that we will have to prove deliberate indifference in this case to succeed, and the reason I was asking Dr. Perry about these reports is because if Dr. Perry has been aware of these conditions for seven years and they haven't changed which is --

THE COURT: I know what you're doing. You've already told me what you're doing, but you're going at it in the wrong direction.

MS. MONJU: Understood, Your Honor.

THE COURT: Ask her what the conditions are now, and then ask her are these conditions any different from 2011 and prove that they're not.

MS. MONJU: Absolutely, Your Honor.

THE COURT: What they were in 2011 is not relevant until you prove that what you say are current conditions.

MS. MONJU: Yes, Your Honor.

THE COURT: It's a waste of time to do it this way. All of you are making these things because you have gone in and dug out all of these records, and you say, *Aha, I've got the witness*. Well, ask the witness. The witness may agree with you.

MS. MONJU: Yes, Your Honor.

THE COURT: Without wasting a half a day's time.

MS. MONJU: Yes, Your Honor.

BY MS. MONJU:

Q Dr. Perry, as of June 2017, you had never visited EMCF. Correct?

A That's correct.

Q Have you visited EMCF in the past year?

A No.

Q You've never been to EMCF?

A I've never visited EMCF or several other prisons.

Q Thank you, Dr. Perry. Dr. Perry, you would agree that MDOC is -- I apologize. EMCF is MDOC's designated facility for prisoners with mental health conditions?

A It is, yes.

Q Serious mental health conditions?

A Mental health conditions.
Q And you would agree that the number of prisoner at EMCF that are on psychotropic medication for mental health conditions is significantly higher than the number of prisoners on psychotropic medications at other Mississippi hospitals.
A I can't agree with that. We have 3100 inmates on our case load for mental health. East Mississippi holds 1100 of those inmates, and there are 2,800 inmates on psychotropics throughout our system. So the number of inmates on psychotropic medications is not weighted more at East Mississippi than any other facility.
Q Dr. Perry, I'd like to show you an exhibit, Plaintiffs' Exhibit 887.
MS. MONJU: Your Honor, may I approach the witness?
THE COURT: Yes, you may.
BY MS. MONJU:
Q Dr. Perry, this is a report dated February 2016 that you received from MDOC's current health care contractors, Centurion. Is that right?
A That's right.
Q And it is -- includes a number of data points about EMCF, but one of those data points is the pharmacy utilization report. Is that right?
A Yes.
Q And if you look at the page that has the number 15968 at

the bottom, this is the pharmacy utilization report for EMCF. Right? That top line, and you can look on the screen if that helps.

A Yes, I see that.

Q If you look at that last number, it says, "Percent of ADP on psychotropics." That means the percent of the average daily population at EMCF that is on psychotropics. Is that right?

A That's right.

Q And that percent is 76.3 percent?

A That's what this says, yes.

Q And so in February 2016, the percent of prisoners at EMCF that were on psychotropic medications was 76.3 percent.

A That's right.

Q If you look at the next page, this says, "Overall." Those are the overall numbers for the Mississippi state prisons. Is that right? And if it helps, as I understand it there are about 17,400 prisoners in the Mississippi State prisons at that time, and that's what the overall number for ADP is on this row?

A Yes. That's what this page says.

Q And at the end of that line it says that, "Across Mississippi, the number of patients on psychotropic medications was 15.6 percent"?

A That's correct.

Q So the number at EMCF was 60 percent higher?

A That's an unfair comparison because this overall includes community work centers who do not house inmates with mental illness. It also includes regional facilities who do not house inmates taking psychotropics. So the overall percentage of our population that receives psychotropics is 15.6 percent, and that includes inmates at East Mississippi.

Q So, Dr. Perry, if you look at -- let me clarify. This report -- the numbers in this report are accurate. Correct? You're not disputing that?

A That's correct.

Q So if you look at that page, the first page we discussed, it says "prisons," and there's 12,839 under ADP. That's the prison population in Mississippi?

A The first page for --

Q It's with the number 15968 at the bottom. And we have it highlighted on the screen, if that helps.

THE COURT: If you'll look at your screen, it's up there and might be easier.

A Okay. What is your question?

BY MS. MONJU:

Q If you look at the end of the row, that says 21.2 percent of the prison population in Mississippi is on psychotropics. Is that right?

A Okay.

Q So the number of prisoners -- the rate of prisoner at EMCF

on psychotropics is more than 55 percent higher than the Mississippi prison population as a whole?

A Okay.

Q So you would agree that the percentage of prisoners at EMCF on psychotropics is higher than the prison population as a whole?

A Yes.

MS. MONJU: Your Honor, I move to admit Plaintiffs' Exhibit 887 into evidence.

THE COURT: Hearing no objection, 887 will be received into evidence.

(Exhibit P-887 marked)

BY MS. MONJU:

Q So, Dr. Perry, we just talked about the fact that prisoners at EMCF are on psychotropic medications at much higher rate than other prisoners. Would you agree that makes mental health care an important service at EMCF?

A It's an important service at all of our prisons that offer mental health care.

THE COURT: Ma'am, you're going to have to speak up so that I can hear you.

BY MS. MONJU:

Q Dr. Perry, is it right that Dennis Gregory is still your mental health director for the state of Mississippi?

A It's correct.

Q Mr. Gregory is a licensed marriage and family therapist. Is that right.
A That's right.
Q He's not a doctor?
A That's right.
Q Or a nurse?
A He's a licensed marriage and family therapist.
Q And you gave Mr. Gregory the role as mental health director because he had a lot of passion for mental health?
A Passion and understanding of the system.
Q I'd like to talk just a moment about the mental health services that are offered at EMCF.

MS. MONJU: Your Honor, if I may approach the witness?

THE COURT: Yes.

BY MS. MONJU:

Q This is Plaintiffs' Exhibit 665. This is an e-mail you sent on November 5, 2015, regarding mental health services available at MDOC prisons. Is that right?
A Okay.
Q That's right? Dr. Perry, I'm sorry. Is that a yes or a no?
A I have to finish reading before I can answer. Thank you.

(Short Pause)

A Yes.
Q In the highlighted section, you wrote, "There are

compliance mental health services available at several prisons." And that includes EMCF?

A Yes.

Q And you wrote that, "Mental health services include formulation of individual treatment plans, therapeutic treatment programs, group therapy, individual therapy, psychiatric examination with prescribing and monitoring of psychotropic medications, and crisis intervention." Correct?

A Correct.

Q And these are the same services that are currently offered at EMCF?

A That's correct.

MS. MONJU: Your Honor, I move to admit Plaintiffs' Exhibit 665 into evidence.

THE COURT: Hearing no objection, 665 is received into evidence.

(Exhibit P-665 marked)

BY MS. MONJU:

Q With respect to individual therapy, which we just discussed, you'd agree, for instance, that it's not appropriate for a mental health provider to have a clinical encounter with a patient at the front of their cell. Right?

A Right.

Q And that's because a session requires privacy?

A Correct.

Q And it is also your understanding that under MDOC policy and the Centurion contract there should be individual treatment at least every 30 days?
A Correct.
Q And, Dr. Perry, you would agree that EMCF needs adequate staff in order to provide those services. Correct?
A Yes.
Q Dr. Perry, I'd like to show you another exhibit.
MS. MONJU: Your Honor, if I may approach?
THE COURT: You may.
BY MS. MONJU:
Q Dr. Perry, this is a report you received in early 2017 regarding mental health services at MDOC prisons. Is that right?
MR. BENTLEY: Erin, do you mind taking that off?
MS. MONJU: Absolutely, if you could take that off. Your Honor, I understand that this report is marked "highly confidential," but we do think it's important that it be shown in open court. One of the reasons that it should be shown in open court is that the exact same version of this report, but from a year later, was introduced into evidence yesterday and shown in open court without objection.
And we believe that the data contained in this report will be important to show in open court. It concerns, for example, the mental health care services that are currently

being provided at EMCF and how adequately those services are being provided.

THE COURT: Do you agree that this is another annual version of the report that was introduced yesterday?

MR. BENTLEY: I do, Your Honor, and I forgot about that fact so I will withdraw the objection.

THE COURT: All right. How are you describing this document?

BY MS. MONJU:

Q So, Dr. Perry, I believe we just said this is a report you received in early 2017 about Centurion's provision of mental health care services at MDOC prisons.

A That's correct.

Q On page 1, the report states that this review was conducted in December 2016 to assess the mental health care services delivered by Centurion and to identify areas that may require improvement. Is that right?

A That's right.

Q And if we go ahead and look at page 4, the report identifies some areas of improvement or that need improvement, and the report states, "Given the current vacancies and staffing levels, staff work hard to provide necessary care to patients throughout the facility but are not able to provide all required services." Is that right?

A That's what the report says, yes.

Q And if you look further down that page, the report makes the recommendation that, "There may need" -- "there may be a need to revisit the current staffing levels at EMCF." Is that right?

A Yes.

Q It also recommends that the regional office of Centurion needs to continue to work with recruiting to fill necessary vacancies?

A Yes.

Q I'd like to show you another exhibit that was entered yesterday.

MS. MONJU: And apologies, Your Honor. Before I do that, I move to admit Plaintiffs' Exhibit 2173 into evidence.

THE COURT: 2173?

MS. MONJU: Yes, Your Honor.

THE COURT: Hearing no objection, that will be received into evidence. Would you give me just a minute to look at something?

MS. MONJU: Yes, thank you, Your Honor.

(Exhibit P-2173 marked)

THE COURT: All right. You may continue.

BY MS. MONJU:

Q Dr. Perry, I'd like to now show you what's been marked as Joint Exhibit 68.

MS. MONJU: Your Honor, may I approach?

THE COURT: You may.

BY MS. MONJU:

Q Dr. Perry, this is the same type of report we just discussed. It concerns Centurion's provision of mental health care services in MDOC prisons. Is that right?

A Yes.

Q But this report is dated a year later. It's from December 2017. Is that right?

A Yes.

Q And if we could look at page 4 of this report, it states that, "MDOC mental health leadership reported significant concerns about the services provided by Centurion." Is that right?

A Yes.

Q Now, it says MDOC mental health leadership. Does that refer to you or does it refer to Mr. Gregory?

A Mr. Gregory.

Q So Mr. Gregory believes that there are significant concerns about the services provided by Centurion?

A His concerns are for the treatment team meetings and establishing the acute mental health unit and the residential treatment unit.

Q Well, Dr. Perry, I think this paragraph then goes on to describe some of those significant concerns, and it states, "In particular, challenges at EMCF were discussed, including the

need to fill critical vacancies as well as provide more intensive clinical services for patients with serious mental illness." Correct?

A The vacancy he's referring to is the psychiatrist, yes.

Q And that's a critical vacancy?

A Yes, it is.

Q So --

THE COURT: Excuse me just a minute. Who is included in MDOC mental health leadership that did the reporting here?

THE WITNESS: Mr. Dennis Gregory is the mental health director for MDOC. I believe that's who they spoke to -- or spoke with when they wrote this report.

THE COURT: You're not included in the mental health leadership of MDOC?

THE WITNESS: They did not talk to me, no, sir.

THE COURT: Were you aware of this?

THE WITNESS: I was aware -- Mr. Gregory gave me a briefing after they spoke with him.

THE COURT: Were you aware of the recommendation that the amount of mental health providers was not in accordance with the -- as I take this with the contract that Centurion had agreed to provide?

THE WITNESS: Yes, sir. I was aware that the psychiatrist at East Mississippi -- that position has not been filled. They are still heavily recruiting for a full-time

psychiatrist. In the meantime, they have --

THE COURT: How long has that been that they've been recruiting and haven't found four or five psychiatrists?

THE WITNESS: The psychiatrist at -- the full-time psychiatrist at East resigned in November, and since November 2017 they've been recruiting to replace him.

THE COURT: Are there other psychiatrist positions vacant at other prisons?

THE WITNESS: Yes, sir. The psychiatry -- psychiatry is a difficult position to fill at all prisons in the United States. There are shortages of psychiatrists. There's a shortage of psychiatrists in our state, the state of Mississippi outside of prisons. So it's difficult to find a psychiatrist.

THE COURT: All right.

BY MS. MONJU:

Q Dr. Perry, we're going to talk more about those vacancies at EMCF as well, but let's keep talking about the mental health care services described in this report, and then we can turn to that. And just to be clear, Dr. Perry, do you share Mr. Gregory's concerns that there is a need to fill critical vacancies add EMCF?

A I share his opinion that we need a full-time psychiatrist, yes.

Q And do you share his concern that there needs to be more

intensive clinical services for patients there with serious mental illness?

A I'm not sure I share that opinion. I see -- despite the -- there not being a full-time psychiatrist, they do are psychiatrists filling in, and they offer treatment team meetings, and they're offering services.

Q So is your only concern with EMCF mental health care at the moment, that there's no psychiatrist?

A That's one of my concerns, yes.

Q Let's go to page 13 of this report. You mentioned that individual treatments plans are something that happen at EMCF. Is that right?

A Yes.

Q And if you look at page 13, this states that there's a significant backlog in completing initial or reviewing treatment plans at the majority of the sites but that completion of these plans and reviews need significant improvement at EMCF. Is that right?

A This redaction is misleading because there are other facilities that have the same problem. So it's not just singled out at EMCF.

Q And, Dr. Perry, just to be clear, your counsel included these redactions on this report. If we can go to page 15. This report states that significant treatments in individual therapy are needed at EMCF and patients receiving individual

treatment every 30 days?
A I'm having trouble finding where you are.
Q We're going to go ahead and find that for you. Just one moment.
(Short Pause)
Q So, Dr. Perry, that top line, it says, "There's been an increase by 20 percent of the 30-day contact percentage." And as we just discussed, that means seeing a mental health provider every 30 days. Right?
A Right.
Q So that's improved 20 percent statewide, but there's still significant improvements needed at EMCF?
A Yes. That's what this report says.
Q And then as we were looking at just a couple of minutes ago, at the bottom of the page, for the records that were sampled at EMCF, there's only evidence of 10 percent of the patients at EMCF receiving group treatment. Is that right?
A Yes, there were 10 records reviewed. That's a small sample size, in my opinion.
Q And, Dr. Perry this is a contract compliance review that MDOC conducted. Right?
A No, this is conducted by Centurion.
Q Dr. Perry, is it right that Centurion contracts with MDOC to provide these services?
A I'm sorry. I don't understand your question.

Q Is it right that Centurion is your contractor?
A Is it right?
Q Centurion is your contractor. Correct?
A Yes.
Q You pay them.
A Yes.
Q And you can tell them how sampling methodologies should work in their contract compliance review reports?
A I could, but why would I? This is an internal review they're conducting for themselves.
Q So you don't think there is important information in this report for you as well?
A I think there is important information, but I did not sanction or tell them to do this review. They do it themselves annually as a checkup of their own compliance.
Q And if you had a sampling problem as they were checking up with their compliance, you wouldn't tell them to change that sampling methodology?
A I don't understand your question, because you're trying to say that if I thought this sample size was too small I should tell them to increase the sample size. This is their internal review. They're conducting for the sake of their own staff. It was not meant to be seen in court or seen by any other person. So I don't understand why I would interfere with their internal review.

THE COURT: Did you review this report?

THE WITNESS: Yes, sir.

THE COURT: You don't think it -- as the head of the whole medical department if you saw something in a report that you found to be inadequate that you should mention it and have something done about it?

THE WITNESS: When they conduct their review next year or this year, they can increase their sample size.

THE COURT: I'm not talking about sample size. I'm talking about whether the services are adequate -- being adequately provided to the prisoner.

THE WITNESS: Yes, sir. We meet every other week to discuss services, and we conduct our own -- MDOC conducts audits regarding chart reviews and seeing if the inmates are being seen adequately. So we do that apart from this report. This is in addition to what we do.

THE COURT: Have you seen problems in any other reports of the adequacy of mental health services to the prisoners at East Mississippi?

THE WITNESS: For the most part, they have difficulty with sick call, the process and the inmates being seen with sick call. The sick call is a system where if an inmate desires services from a physician or a nurse practitioner, whether it is mental health or medical or dental, they submit a slip or a form requesting that service. That form is picked up

daily by the medical staff and reviewed, and then the inmate is seen in the clinic.

When they are seen in the clinic, they must be seen by a professional RN. And once they're seen by the RN, she determines whether they can be treated with what we call nursing protocol. That means if they have some common problem that she can take care of right then, they could go ahead and get seen. If there's something that is above the nursing scope of practice, then they have to be referred to a physician or a nurse practitioner, and they have to be seen within seven days.

That seven-day period compliance has been a problem with this particular facility because initially they had a physician that was lazy, in my opinion, and just didn't see the inmate. And following that, they had difficulty filling that spot.

But now we have a full-time physician and two nurse practitioners so that problem has been reduced and resolved. But there is still a backlog so we're trying to fix that problem and get it caught up. So the problem with inmates being seen for their requested medical conditions is improving, and that resulted from our audit of their sick call practice.

THE COURT: Have you considered or discussed with Centurion that they might need to be replaced by another provider?

THE WITNESS: Well, they have a contract that ends in

2019, and it will go out for procurement again. So it has to be rebid, and they have to win that procurement again. So yes, sir, that --

THE COURT: But if they are not providing the services as provided by the contract, they can be replaced, like any other contractor --

THE WITNESS: They can.

THE COURT: -- can they not?

THE WITNESS: Yes, sir, they can.

THE COURT: That has not been considered or discussed with them?

THE WITNESS: It has been discussed actually.

THE COURT: All right. You may proceed, Ms. Monju.

MS. MONJU: Thank you, Your Honor.

BY MS. MONJU:

Q Dr. Perry, you said that two concerns you have at EMCF are sick calls and you had concerns regarding mental health care including vacancies at EMCF. Do you have other concerns at EMCF?

A No, those are the two major concerns. They have already opened the acute care unit and the residential treatment unit. So those concerns have been resolved.

Q Let's talk briefly about that treatment unit you just mentioned. Is that Housing Unit 3?

A Yes.

Q And that's recently been set up as a residential mental health unit for patients with serious mental illness?
A That's correct.
Q If we could look at page 26 of the same report we were discussing. So as you mentioned this is a brand new service at EMCF. Right?
A Right.
Q At page 26 -- we're going to get that highlighted for you. You can see that it says "Staffing was not sufficient to ensure that all patient have access to intensive service, including individual and group therapy due to vacancies." Is that right?
A That's right.
Q And this report states that Housing Unit 3 not all the patients were seen every 30 days by a mental health professional?
A Is that on this page?
Q I'm sorry. That's page 28. See it says, "Record review indicated that patients on Housing Unit 3 were not seen by a mental health professional every 30 days in accordance with their treatment plans and policy requirements"?
A That's correct.
Q So this is a brand new service at EMCF, and even with this service, there's insufficient staffing and prisoners are not being seen every 30 days in accordance with policy and their treatment plans"?

A Since this report was written, they are fully staffed with MHPs now.
Q And this report was issued in December 2017?
A Yes.
Q Do you have documentation of that with you today?
A I don't, no.
Q Just a couple of more points in this report. On page 17, this report states that despite staff reports of backlogs, patients appear to be seen by a psychiatric provider at least every 90 days at all sites with the exception of EMCF?
A That's correct. That's because of the absence of a full-time psychiatrist. They do have a full-time psychiatric nurse practitioner.
Q So at every prison except EMCF, which has the most patient on psychotropic medication, patients on psychotropic medications were seeing psychiatric providers timely. Correct?
A Correct.
Q But not at EMCF?
A For this brief period, that's correct.
Q For this annual report that was issued in December 2017?
A Yes. Between -- since the full-time psychiatrist was not on staff, they did fall below their 90 percentile.
Q You you've testified that there has not been a full-time psychiatrist on staff at EMCF for at least five months?
A Since November 2017.

Q I'd like to talk about page 25 of the report. So you mentioned that crisis intervention occurs at MDOC prisons. Correct?
A Yes.
Q And what that means is that prisoners may be placed on suicide watch or psychiatric observation?
A That's right.
Q Okay. And on page 25, this report states that EMCF had long lengths of stay for patients on suicide watch or psychiatric observation?
A Yes.
Q The report also states that, "If crises that are requiring patients to be on watch are lasting more than two weeks, staff should be referring patients to a more suitable treatment location or giving them more intensive treatment than just watching them."
A That's what the purpose of the acute care unit is for.
BY MS. MONJU:
Q Okay. But this report state that if prisoners are being held on watch for more than two weeks they need more intensive treatment. Is that right?
A Yes.
Q So, Dr. Perry, if we look at page 24 of this report, it states that the average number of days that prisoners at EMCF are held on watch is 22 days. Do you see that?

A Yes.

THE COURT: Excuse me. Is that suicide watch or --

MS. MONJU: Yes, Your Honor.

THE COURT: Or watch in general?

MS. MONJU: Suicide watch and psychiatric observation.

THE COURT: You can have -- Doctor, can you have psychiatric observation without it being suicide observation?

THE WITNESS: Yes, sir, you can.

THE COURT: Is this a -- does this combine the two?

THE WITNESS: It does.

THE COURT: I assume the suicide watch would be much smaller than the -- smaller than the overall number.

THE WITNESS: That's correct, yes, sir.

THE COURT: All right.

BY MS. MONJU:

Q So, Dr. Perry, this report, as we just discussed, said patients need more intensive care if they are on suicide watch or psychiatric observation for more than two weeks. Correct? That's what we just discussed?

A Yes.

Q This report says that EMCF patients are on average being kept in watch for more than three weeks. Is that correct?

A Yes. That's the reason we were intensely ready for this acute care unit.

Q Thank you, Dr. Perry. So we're just going to look at one

number quickly from that 2016 report we were discussing. And that's going to be on page 24 of the 2016 report. I believe it's in front of you.

THE COURT: Excuse me, how many patients do you average in the acute care facility, if that's the correct word.

THE WITNESS: We have five, an average of five. We've already had one -- it opened a month ago. We've had five so far, and one of them has stabilized and been rehoused at another part of the facility.

THE COURT: And how long has it been opened?

THE WITNESS: About a month.

BY MS. MONJU:

Q Dr. Perry, we were looking at the 2016 report about the average number of days that prisoners at EMCF are on watch. And you can see that the number in December 2016 was 12, 12 days?

A I'm trying to find it.

Q It's on the screen, if that helps.

A Yes.

Q So from 2016 to the end of 2017, the average number of days that prisoners were being held on suicide or psychiatric observation increased from 12 days to 22 days?

A Well, it includes suicide and psychological. I would expect at a psychiatric for there to be psychological watch.

Q I'm not disputing that, Dr. Perry. But in this it says

people were being held for 12 days on watch and in next report that it nearly doubled to 22 days. Is that right?

A Yes.

Q And the 2017 report said that that shouldn't be happening because patients shouldn't be held for more than 14 days on watch?

A On suicide, yes.

Q And psychiatric observation. Is this because there's no psychiatrist at EMCF?

THE COURT: Wait, wait. Those don't necessarily mix, to my understanding. Suicide watch, they shouldn't be on watch more than 14 days is one thing. Psychiatric -- psychiatric observation shouldn't be on more than 14 days could be a completely different situation. In other words, a patient who is not suicidal might need --

THE WITNESS: Additional care.

THE COURT: -- psychiatric watch, if he's cutting himself, for instance. So can you maybe clarify that concept for me?

MS. MONJU: Absolutely, Your Honor.

BY MS. MONJU:

Q And, Dr. Perry, feel free to chime in if I'm getting this wrong. But I'm going to summarize that 2017 report from the court. So as I understand it, suicide watch and psychiatric observation occur when a patient is in an acute --

THE COURT: I think you should do it by question.

BY MS. MONJU:

Q Dr. Perry, let me know if you agree. So suicide watch and psychiatric observation occur when a prisoner is in an acute mental health crisis. Is that right?

A That's correct.

Q Means they could be a danger to themselves, danger to others. They need to be watched closely.

A Correct.

Q And the purpose of watch is that it should be temporary because that crisis needs to be addressed and we need to move past it. Is that right?

A That's right.

Q Okay. So that's the reason that both people on suicide watch and people on psychiatric observation, if they're held for more than 14 days, the problem's not getting fixed. Right?

A It means that the problem still exists.

Q And that means they, for instance, may need to be moved to a more intensive treatment facility so they can get different and sort of more thorough treatment?

A More intense treatment, yes.

Q Okay. And you would agree with that?

A I agree with that.

Q Okay.

MS. MONJU: Does that help, Your Honor?

THE COURT: Yes.

BY MS. MONJU:

Q And so, Dr. Perry, one of the things we were discussing about suicide watch and psychiatric observation is that there's a mental health unit at EMCF. Is that right?

A That's right.

Q I'm sorry. A medical unit. I apologize. And this medical unit houses people who need to be closely observed. Is that right?

A That's right.

Q Sometimes in this medical unit there aren't sufficient beds for all the patients who need to be there. Is that right?

A You're talking about the infirmary?

Q I am.

A Yes.

Q And sometime as a result a patient either psych -- mental health patients or medical patients have to be held in what we call the intake unit. Right?

A I don't believe they utilize the intake unit for that purpose, no.

Q Okay. Were you aware that there's a contract monitor at EMCF that monitors the safety and security issues at the prison?

A Yes.

Q And are you aware that she files weekly reports with MDOC?

A Yes.
Q And were you aware that in -- several times in 2017 she found that patients who were on suicide watch were being held in the intake unit?
A No, I had not seen those reports. But since the acute care unit opened, that should not be a problem anymore, utilizing the intake for suicide watch or psychiatric watch.
Q But again you have no documentation today showing that that has improved?
A No, I don't.
THE COURT: How many beds are in this intake unit or in the -- what did you call it?
THE WITNESS: Acute care unit? We're admitting five patients.
THE COURT: How many bed are there? Five?
THE WITNESS: There are 20 beds. But just -- since it opened a month ago, we're trying to make sure it's working correctly so we're only admitting five at a time.
THE COURT: You will have room for --
THE WITNESS: For 20.
THE COURT: -- 20 patients?
THE WITNESS: Yes, sir. Especially once the full-time psychiatrist is at the facility.
BY MS. MONJU:
Q So, Dr. Perry, just to be clear, we just discussed the

infirmary. There are ten beds in the infirmary. Correct?
A Yes.
Q And we just discussed there are too many patients to be in those beds, and they have to be held in intake?
A Right.
Q And you're saying that there are only five beds in the acute unit?
A There are 20 beds, but there -- we're admitting five people at a time initially --
Q Okay.
A -- to work out the kinks.
Q So we were just discussing the fact that patients on suicide watch are sometimes being held in intake. Did you know that in the MDOC contract monitor's report she also noted at least a couple of instances where prisoners were not being checked on every 15 minutes while they were on suicide watch?
A No, I didn't notice that. Didn't know that.
Q And if we look at page 25 of the mental health report again, there's a specific concern with respect to --
A Which one is this?
Q Page 25, and it's that 2017 report we were discussing.
A Okay.
Q So on page 25, it states that -- we're going to highlight that for you. It appeared that safety mattresses were not being provided to patient on suicide watch. Do you see that?

A Yes.
Q And so this is the 2016 report. I apologize that we're look at right now. And this is advising that safety mattresses need to be provided to all MDOC prisoners on suicide watch. Is that right?
A Yes.
Q And a safety mattress is just something that means the prisoners can't harm themselves with the mattress?
A Correct.
Q And that's important because they're on suicide watch.
A Correct.
Q Okay. So now we are going to look at page 25 of the 2017 report. Sorry about that. And while we pull that up -- so if you look at the bottom of this, it says, "Reviewers noted that the mattresses were not being provided to patients on suicide watch at EMCF." Do you see that?
A You mean the one that says that the mattresses appear not to be safety mattresses?
Q Correct.
A Correct.
Q And that means that patients who are on suicide watch at EMCF are being given mattresses that they can use to harm themselves with?
A They're given a regular mattress, correct.
Q And that's despite a recommendation in the 2016 report that

patients on suicide watch should be given safety mattresses?
A Correct.
THE COURT: What's the difference in a regular mattress and a safety mattress?
THE WITNESS: A safety mattress, if you put pressure on the thread, they break. With a regular mattress, they don't break. That's the only difference. So if they're trying to hang themselves, if they pull the threads out of the safety mattress trying to hang themselves, when they put pressure on that rope that they made, it will break. And with a regular mattress, it may not necessarily break.
THE COURT: Okay. Sometimes in my business you learn something new every day.
BY MS. MONJU:
Q So, Dr. Perry, I know one of the concerns you talked about today was that EMCF -- they were having difficulties filling vacancies. Is that right?
A That's right.
Q And the minimum staffing levels at EMCF, those are set in the contract with Centurion. Is that right?
A That's right.
Q And you received monthly reports from Centurion that reflect current staffing levels?
A Yes.
Q So you're able to track who's on staff at EMCF every month.

Is that right?
A I track the FTE percentages. I don't necessarily look at the individual positions.
Q Okay. Just to break that down, FTE --
A Full-time equivalent.
Q Thank you, Dr. Perry. And the minimum staffing at EMCF, essentially they have to have a set number of FTEs at any time. Right?
A Correct.
Q But those FTEs are broken down by position.
A Yes.
Q So, for example, they need one doctor at EMCF.
A Yes.
Q But you don't monitor whether or not they have that position filled. You just look at the FTEs?
A For key positions such as the psychiatrist and the physician, yes, I look at those every month.
Q But, for instance, you may not know if there are vacancies with nurses?
A Correct.
Q And I know -- strike that. So three important positions in health care at EMCF are site medical director, health services administrator, and director of nursing. Is that right?
A That's right.
Q And just to clarify a couple of points of that terminology,

site medical director is the physician. Right?
A Yes. That's the physician. He manages the medical program at the facility.
Q And the health services administrator, that's the chief health care administrator at the prison?
A Yes. That's the site manager.
Q Right. And he essentially makes sure all the trains are running on time.
A Correct.
Q And the director of nursing, I think that's an obvious one. That is the nurse who's in charge of all the other nurses?
A The head nurse, yes.
Q Great. And it's your position that Centurion needs to be successful in recruiting in order to be in compliance with its contract. Is that right?
A That's right.
Q But you've acknowledged that Centurion has had difficulty recruiting and retaining staff at EMCF?
A Yes. It's a national problem with recruiting and retaining medical staff in prisons.
Q So let's talk about, I think, those problems as they relate to EMCF. Centurion's had problems keeping a doctor, a health services administrator, a director of nursing, and a psychiatrist at EMCF. Is that right?
A Yeah. There is a full-time doctor there now.

Q Okay. Let's talk about that. So there has to be one physician at EMCF. Is that right?
A Yes, at least -- we want a site medical director at each facility, yes.
Q Okay. And that's one doctor for about 1200 prisons?
A Yes.
THE COURT: How many -- with how many prisons does Centurion contract?
THE WITNESS: They're in several states. I don't know how many prisons they actually contract with, but we have six prisons in Mississippi and 15 regional facilities, and they provide the staff for all of those.
THE COURT: And that would include a doctor for every prison?
THE WITNESS: Yes, sir.
THE COURT: And if they've got 25 contracts around the country, where would a Mississippi prison stand as an attractive job for a doctor compared to those over 15 or 25 places?
THE WITNESS: Prisons in general are not really attractive for doctors to work in. We have trouble recruiting physicians, nurses, psychiatrists. Nationwide -- it's a nationwide problem, including the Federal bureau of Prisons. They also have staffing shortages. So it's a problem.
THE COURT: Are pay, type of work, and location, all

three major issues?

THE WITNESS: Yes, sir. And it's not very prestigious to work in a prison.

BY MS. MONJU:

Q So Dr. Perry, we were just discussing the physician role at EMCF. Dr. Rolando Abangan was the physician at EMCF for several years. Is that right?

A That's right.

Q He was fired in January 2017?

A Yes.

Q And EMCF did not hire a replacement for him until around October 2017?

A Correct.

Q So there was no permanent position at EMCF for ten months?

A They used an agency locum tenens doctor, and the call was taken by the other physicians in the state.

Q So other physicians were traveling from other prisons in order to provide care at EMCF?

A Yes.

Q And I think you testified in your deposition that that could make the other doctors tired because their case load would increase?

A Yes.

Q And so for ten months, there was no one who was permanently providing care at EMCF to the prisoners?

A I don't like the way you say that.
Q Fair enough.
A But it took ten months --
Q Ten months?
A -- to find a full-time.
Q Understood. And it's your position that not having a site medical director was one of the instances in which Centurion failed to meet its contract obligations?
A Yes.
Q And we've already discussed there's not been a permanent psychiatrist at EMCF for about five months now. Is that right?
A That's right.
Q And we talked about the role of health services administrator. That's one of the top three positions at EMCF?
A Correct.
Q So Mr. James Little was the health services administrator at EMCF for several years?
A Yes.
Q He went by Ollie.
A Right.
Q And he was fired in January of 2017?
A I don't know the circumstances of his vacancy, but he left in January, yes.
Q So you testified in June 2017 that he was fired because he didn't have very good organizational skills. Does that sound

right?
A I don't know if he was fired for that reason, but he didn't have good organizational skills.
Q And Centurion did not hire a replacement for Mr. Little until about May of 2017. Is that right?
A It took quite a few months, yes.
Q And the person that was hired was Eric Brisco.
A Yes. And he worked there about a week and took another job.
Q And at your deposition, you testified that Mr. Brisco seemed perfect for his job at EMCF?
A Yes.
Q And he left after a week?
A I believe it was a week. He was recruited away by another company. So he took the better job.
Q And Centurion did not hire a permanent health services administrator at EMCF until October 2017?
A Yes, it took quite a while to find a replacement.
Q And so again from about January 2017 to October 2017, there was no health services administrator at EMCF?
A There was a person from the central office -- the regional office filling in.
Q But no permanent health services administrator?
A No.
Q And we also discussed the director of nursing at EMCF. Are

you aware that there were three different directors of nursing at EMCF in 2017?

A Yes.

Q And we were also discussing whether EMCF was an attractive place to work. Would it sound right to you that Dr. Abangan, who was the physician we discussed who was at EMCF for several years made about $200,000 a year?

A That's a lot of money.

Q It is. I'd take that. Okay. Great. So let's talk a little bit more about Dr. Abangan. So under Centurion's contract, you have approval authority over senior health care positions at EMCF. Is that right?

A That's right.

Q Okay. And that would include the medical director, the physician, nurse practitioners, director of nursing, and the health services administrators. Does that sound right?

A Yes.

Q And so applications are sent to you for your review before these people are hired.

A Yes. The -- what -- once the regional vice president or the regional director of nurses or whoever is doing the interviewing makes a selection, they send those applications to me to review or resumés.

Q Got it. And if you for whatever reason didn't approve of a candidate, Centurion wouldn't hire that person.

A Yes. Correct.
Q So as of June 2017, you had never exercised that veto power. Right?
A That's right.
Q And in addition to hiring decisions, you can also recommend that Centurion take disciplinary action against employees?
A I don't usually interfere with their personnel issues, but if there is a person causing a problem with health care or providing services to the inmates, then I will make a recommendation.
Q Great. So let's talk about Dr. Abangan. Dr. Abangan had joined EMCF with GEO. Correct? That the first contractor way back in the day?
A Yes.
Q And he got there in 2008. Does that sound right?
A I suppose. He's been there awhile or was there awhile.
Q Got it. And as we discussed, he was fired in January 2017. Is that right?
A Yes.
Q And that's about nine years later?
A Yes.
Q Isn't it right, though, that MDOC had received recommendations to fire Dr. Abangan as early as 2011?
A I had not received any recommendation. I read that in one of those reports. In 2016 I read about Dr. Abangan. And

that's the first time I actually knew about that event in the past.

Q Got it. So I think all the things we're about to discuss, you weren't aware of any of these events until you read plaintiffs' expert reports --

A That's correct.

Q -- in like January of 2017. Did us that sound about right?

A Yeah.

Q So one of the reports we discussed was a report by plaintiffs' expert named Madeleine LaMarre. She's a nurse, and she issued that report in 2011. Are you familiar with that report?

A That's the report that was included in Dr. Gage's report. So by that, yes.

Q Okay. And Nurse LaMarre --

A Dr. Stern's report. Sorry. Dr. Stern.

Q There's a lot of doctors floating around.

A Yes.

Q And in Nurse LaMarre's 2011 report, she actually said that Dr. Abangan was dangerous to patients and that he should be immediately removed from EMCF. Does that sound familiar?

A You know, I don't remember reading that, but that's really bad.

Q That's bad, yeah. I think we're on the same page on that. So you never saw that report?

A No.
Q You were not made aware of that report?
A No, I want.
Q Were you aware that the Warden of EMCF in 2011 also said that Dr. Abangan should be immediately fired?
A No.
THE COURT: What's the relevance of the conduct or the ability of a doctor in 2011 who was -- has since been fired?
MS. MONJU: Your Honor, we're going to, I think, quickly walk through a series of events that Dr. Abangan was permitted to continue working as the doctor at EMCF for nearly ten years or spread across ten years despite the fact that the Warden, Nurse LaMarre, said he should be fired immediately in 2011, the deputy commissioner for MDOC said she should be fired in 2011. He got rehired after he was fired. Dr. Perry herself sent an e-mail in 2015 saying he's dangerous.
THE COURT: You think we should swear her in?
MS. MONJU: Apologies, Your Honor.
MR. BENTLEY: I don't. I do think, to Your Honor's point, that it's been established Dr. Abangan has been terminated by the current provider, and I don't know why we have to cover ten years of his history as a doctor.
THE COURT: When was he terminated?
MS. MONJU: January 2017, Your Honor. But if I may, one of the central items plaintiffs will have to prove is

deliberate indifference, and we're going to show you that Dr. Perry was aware that Dr. Abangan was dangerous to patients for years before he was fired and that because Dr. Perry is still in charge of health care at EMCF, there's frankly no reason to believe that this won't happen again without outside intervention.

A Dr. Abangan was not my employee. I could not fire him. I made a recommendation that he be fired, and he was.

MS. MONJU: And, Your Honor, we're going to show that Dr. Perry permitted Dr. Abangan to be rehired at EMCF several times despite the fact that she sent an e-mail saying he was dangerous?

THE WITNESS: I didn't permit him to be rehired.

THE COURT: Wait, wait, wait, wait, wait. Any comment?

MR. BENTLEY: Your Honor, this case is about current condition at East Mississippi Correctional Facility. The plaintiffs have been asking that Dr. Abangan be terminated. Dr. Abangan has been terminated. That has been established by the testimony. I suggest we move on.

MS. MONJU: Your Honor, quickly I believe defense counsel is somewhat misstating the legal standard in this case. It does concern current conditions, but we also have to show that MDOC is deliberately indifferent to those conditions. And one of the ways plaintiffs will have to prove that -- the

burden is on us -- is that we have to show that MDOC has been repeatedly notified of concerns at EMCF and has not responded. And this is one of those points.

THE COURT: All right. Overruled.

MS. MONJU: Thank you, Your Honor.

BY MS. MONJU:

Q So I think we'll keep this fast for the court. So, Dr. Abangan was, in fact, fired in 2011 by GEO. Is that right?

A I don't know.

Q And Dr. Abangan was then hired to work at other MDOC prisons while you were chief medical officer?

A He was hired by Wexford when they were the provider. He was hired to work at Central Mississippi Correctional Facility.

Q And you were chief medical officer at that time?

A Yes, I was.

Q And then he was rehired by another contractor at EMCF, Health Assurance. Is that right?

A Yes.

Q And he was permitted to stay on with Centurion when they took over at EMCF. Is that right?

A Yes. In the contract, when a vendor changes, the current staff has six months to continue to work so that there is continuity of care for the inmates and that the current staff can feel secure that they have a job.

So those staff are automatically rehired by the new or

incoming vendor. I don't get any approval of those current staff. I had no approval privileges with Health Assurance or with Wexford. So they hired their own personnel.

Q Just to clarify the record Health Assurance didn't hold over Dr. Abangan during a grace period. They heried him directly. Correct?

A I don't know.

Q You don't know. And do you know where in the contract this six-month grace period is?

A It's usually with talking about the personnel.

Q Okay. And I just wanted to talk about one e-mail you sent during this so-called grace period. I'd like to show you Plaintiffs' Exhibit 728.

MS. MONJU: Your Honor, may I approach the witness?

THE COURT: You may. What's that number?

MS. MONJU: 728.

BY MS. MONJU:

Q So, Dr. Perry, this is an e-mail that you sent to both Centurion and MDOC officials on September 2, 2015. Is that right?

A Yes.

Q And looks like we're having some problems with the screen so Your Honor I'm happy to bring this e-mail up to you if that would help.

THE COURT: If I need to see it you may certainly

bring it up.
BY MS. MONJU:
Q In this e-mail exchange, a doctor on your staff Zein Mohammed -- is that right?
A Yes.
Q He's expressing a concern that a prisoner with very high blood sugar level hadn't been seen a provider at EMCF. Is that right?
A Yes.
Q And Dr. Mohammed had called EMCF and told them to do something about it but they hadn't?
A Correct.
Q And Dr. Mohammed wrote, "This level of patient care is not acceptable." Is that right?
A Yes.
Q And you wrote in reply to that e-mail, "Dr. Abangan's patient care is persistently lacking and not acceptable." That's right?
A Yes.
Q And you believed that when you wrote it?
A Yes.
Q And you wrote this in September of 2015 as we discussed. Is that right?
A That's right. So.
Q So this is just a couple of months before Centurion took

over the contract?
A Yes.
Q And it's your position that you couldn't tell Centurion to fire a doctor whose patient care was persistently lacking and not acceptable?
A I didn't say that. I said that I was telling Mr. Jones, who was the vice president of Mississippi and Deborah Crook, the regional vice president, that they needed to ensure that Dr. Abangan performed his patient care duties. That was the purpose of this response that I sent on that particular day.
Q And Dr. Abangan was not fired for another year and a half. Is that right?
A That's right.
Q And so I've just --

MS. MONJU: Your Honor, if I could move to admit Plaintiffs' Exhibit 728.

MR. BENTLEY: No objection.

THE COURT: 728 will be received into evidence.

(Exhibit P-728 marked)

BY MS. MONJU:
Q And so, Dr. Perry, you testified earlier today that you believe Dr. Abangan was lazy. Is that right?
A Yes.
Q And you believed he lacked the personal integrity to perform at an adequate level with patients?

A I believe he was lazy and needed prodding to see patients.
Q And you had received several complaints, in fact, from prisoners at EMCF and their families about Dr. Abangan's care. Is that right?
A Yes.
Q And you found most of these complaints to be credible?
A Yes.
THE COURT: You have pretty well made a case that this doctor was incompetent and needed to be fired and that he has now been fired.
MS. MONJU: We will move it along, Your Honor.
THE COURT: How much longer are we going to go with this firing process of something that the defendants agree with you on?
MS. MONJU: Three more questions, if I may? I'll keep them short.
BY MS. MONJU:
Q So you said Centurion fired Dr. Abangan in January 2017 shortly after your recommendation that he be fired. Right?
A Right.
Q So is it right that you could have recommended earlier that he be fired?
A I don't know if I could have or not. I was at the point in January where -- or December where I don't think they could have done anything else to help him fulfill his duty as a

physician. So that was the only thing left to do.
Q And as we discussed, that was about ten years after he initially joined EMCF?
A I don't know. That was after Centurion had been there since July 2015.
Q Thank you, Dr. Perry. Your Honor, I know we've been at this for a little while. I'm happy to keep going, or if you'd like to take a break.
THE COURT: I'd like to take's break. How much longer do you have with this witness?
MS. MONJU: We have a bit longer, Your Honor. And I think just to make clear, Dr. Perry is the only, I think, MDOC leadership person we're calling on the medical and mental health care claim, which I think will explain the length of this examination.
THE COURT: "A bit" is a bit of an amorphous term. Shorter than longer.
MS. MONJU: I think we'll go after lunch, Your Honor.
THE COURT: We'll stand in recess for 15 minutes until 15 minutes of 11.
(Recess)
THE COURT: Ms. Monju, you may continue.
BY MS. MONJU:
Q Dr. Perry, I'd now like to discuss some of the essential elements of a correctional health care system. And am I right

in saying that's essentially all the different components a correctional health care system needs to provide adequate health care services?

A Yes.

Q One essential element of a correctional health care system is access to care.

A That's correct.

Q And that includes what's called episodic or nonurgent care?

A Yes.

Q Care for chronic illnesses?

A Yes.

Q Access to urgent care?

A Yes.

Q Access to specialty care?

A Yes.

Q Access to medications?

A Yes.

Q Access to dental care?

A Yes.

Q And we've already discussed this, but access to mental health care?

A Yes.

Q Caregivers should also operate within the scope of their licenses?

A Correct.

Q There should also be an administrator to provide leadership to the health care team?
A Yes.
Q And peer reviews of health care professionals are a necessity?
A Yes.
Q And just to be clear for the court, peer review is a process by which health care professionals evaluate each other area performances to determine whether they've met accepted standards of care?
A That's correct.
Q In addition, access to care should not be determined by a patient's security level or length of sentence?
A Correct.
Q So that just means a prisoner in solitary confinement should is a same access to care as a patient in minimum custody has?
A Correct.
Q So would that be one reason that security staff and health care staff have to work together?
A Yes.
Q And, for example, that's because security staff may need to provide escorts for chronic care?
A Yes.
Q They may need to staff clinic operations for when there are

examinations?
A Correct.
Q And they may accompany nurses to pick up sick call forms or provide medication?
A Right.
Q So let's discuss a few elements of those access to care. So you've already discussed to that patients generally access nonurgent care through sick call requests. Is that correct?
A That's right.
Q And MDOC has a policy governing the use of sick call requests?
A Yes.
Q I'm going to show that to you in just one moment. So, Dr. Perry, we're going to try to find that printed copy for you. We're unable to find it, but as soon as we do -- great. So, Dr. Perry, we've put up the sick call policy on the screen. Is this MDOC's policy regarding sick calls?
A Yes, it is.
Q And according to this policy, if a patient has an emergent issue -- and that means a really urgent issue -- like chest pains, he should be seen immediately. Right?
A Right.
Q He doesn't have to go through the sick call process.
A Right.
Q With patients with nonurgent issues, what they do is fill

out a sick call form. Is that right?
A Right.
Q And those forms need to be on each house housing unit so they can be filled out?
A Yes.
Q And then the patients put them in a locked box?
A Correct.
Q And it goes in that box because it's a medical request that needs to be confidential?
A Correct.
Q And on segregation for sick calls -- let me back up a little bit. Nurses then go pick up those sick call requests. Is that right?
A Right. Or nursing personnel. Could be a certified nursing assistant also.
Q Got it. For the segregation units, nurses then have to go to those units and do what's called seg rounds because the patients in those cells can't go drop off the sick call forms themselves. Is that right?
A That's right.
Q Sick call requests, because they concern medical conditions, need to be collected every day. Is that right?
A That's right.
Q And that includes weekends?
A Yes.

Q And the forms when they're picked up, they have to be time and date stamped by medical?
A They should be or at least some way of tracking when they were received.
Q Got it. And then a triage occurs within 24 hours by a registered nurse?
A Yes.
Q And that triage has to occur face to face, and that just means the nurse has to go talk to the patient?
A Right.
Q And if the nurse can't resolve the problem herself, she would then refer that patient to a doctor or a nurse practitioner. Right?
A That's right.
Q And then that has to take place -- the patient has to see the provider within seven days. Is that right?
A Correct.
Q Great. And I believe we just dug up those policies.

MS. MONJU: So, Your Honor, if I may approach the witness?

THE COURT: Yes.

BY MS. MONJU:
Q Dr. Perry, these are MDOC's health care policies. Correct?
A Yes.
Q And as chief medical officer, you sign off on these. Is

that right?
A I review them. Some that have been updated or revised, I sign off on.
MS. MONJU: Your Honor, I move to introduce Plaintiffs' Exhibit 2091.
MR. BENTLEY: No objection.
THE COURT: 2091 will be received into evidence.
(Exhibit P-2091 marked)
BY MS. MONJU:
Q So we just talked about sick call at EMCF and the policies that govern sick call at EMCF.
THE COURT: What is this you just introduced?
MS. MONJU: These are MDOC's policies governing health care in their prisons.
BY MS. MONJU:
Q So, Dr. Perry, are you aware that not all these policy requirements are being consistently followed at EMCF?
A No, I'm not aware of that.
Q So we've discussed the safety and security contract monitor at EMCF. Right?
A Right.
Q And she files monthly reports with MDOC?
A Yes.
Q And were you aware that she files reports on the availability of sick call forms on the Housing Units?

A No.
Q So you weren't aware that from September 2014 to June 2017 that contract monitor found in 75 percent of her reports that sick call forms were not on all of the housing units?
A I was not aware of that, no.
Q Were you aware that prisoners at EMCF have to give their sick call forms to officers to then go put into a locked box because the boxes are outside the housing units?
A I was not aware of that, no.
Q And as we discussed, that's confidentiality problem. Right?
A It is.
Q Did you know that information was disclosed in Ms. LaMarre's 2016 expert report?
A No.
Q And that's because you didn't read that report?
A Correct.
Q Centurion itself also monitors its performance as to sick calls. Is that right?
A Yes.
Q I'd like to show you what's been marked as Plaintiffs' Exhibit 2176.
MS. MONJU: Your Honor, may I approach the witness?
THE COURT: Yes. What's that number.
MS. MONJU: 2176.

THE COURT: Hearing no objection, 2176 will be received into evidence.

(Exhibit P-2176 marked)

MS. MONJU: Thank you, Your Honor, just to be clear, this has been admitted?

THE COURT: Yes?

MS. MONJU: Sorry about that.

BY MS. MONJU:

Q So, Dr. Perry, this is a report about EMCF that was prepared by Centurion. Is that right?

A Yes.

Q And it's dated February 2017?

A Yes.

Q You've reviewed this report?

A No, I have not.

Q Dr. Perry, do you recall that this report was shared with you at your June 2017 deposition and you testified about it under oath there?

A Okay. Is this part of that same report? I didn't get the full report. I just got pages.

Q So, yeah, this is what they shared with you. That sounds right?

A Yes.

Q Okay. So if we could look at page 14, this page of the report deals with, as you can see at the top of the page, sick

call. Is that right?
A Yes.
Q And if we look at one of the findings about segregation rounds -- and that's where the nurses go and pick up the sick call slips from each of the patient in segregation as we discussed. That's right?
A That's right.
Q It says that seg rounds at EMCF are not being performed routinely. And it's on the screen too if that's easier for you.
A Okay.
Q That's what it reports. Correct?
A Yes.
Q And the report also states that nurses are signing seg logs which just reports that they have completed their segregation rounds even though they were not seeing each patient. Do you see where it says that on the report in red?
A Yes, that was reported by the DON.
Q Do you recall your position that this was a problem because it's falsifying a medical record?
A Correct.
Q And that's illegal?
A It is.
Q If we also look on page 14 of this report, it states that there is not adequate DOC staff for patient care.

A Is that at the bottom of page?
Q So we have it up on the screen for you if that helps.
A Yes, I see it.
Q Great. And that is right next to the metric that says, "Staff report access to patients and security caption is appropriate to provide care." Do you see that?
A Yes.
Q And the report said no to that metric?
A It does.
Q And the reason is that because there is not adequate DOC staff. Is that right?
A That's right.
Q And what that means is there's not adequate security staff for nurses to, for example, go pick up sick calls and conduct segregation rounds?
A That's right.
Q You would agree that that's not a good situation?
A It is not.
Q And it's because sick calls and seg rounds are important?
A Correct.
Q And, for example, if nurses don't feel safe because there isn't adequate security staff to go with them on their sick call and seg rounds, they may just not conduct their sick call and seg rounds?
A That's right.

Q If we look at the summary at the front of this report on page 1, it states "With respect to sick calls, the slips are not being stamped when received and not being triaged timely." Do you see that?
A Yes, I do.
Q And what that means is that the nurses weren't reviewing the sick call requests within 24 hours?
A Correct.
Q Thank you, Dr. Perry. Let's move on to the next essential element of a correctional health care system. That's chronic care.
A Yes.
Q So chronic care is when a patient has a disease that's not going anywhere, like diabetes or heart disease or asthma. Does that sound right?
A Yes.
Q And the purpose of chronic treatment is to decrease the frequency and severity of the symptoms of the disease?
A Yes, to manage the disease, yes.
Q Great. And that is supposed to sort of, to the extent they can, stop the disease progression and hopefully make the patient feel better?
A Correct.
Q And so for patients to access chronic care at a prison and at EMCF, typically the provider will diagnose their chronic

condition first. Is that right?
A That's right.
Q And then the patients are enrolled in something called a chronic care clinic.
A Correct.
Q And that CCC for short?
A Yes.
Q And then those patients will be seen in a clinic as much as needed based on the severity of their condition?
A Absolutely.
Q Great. And patient care in the than chronic care clinics at EMCF is tracked on spreadsheets called chronic care logs?
A Right.
Q And what that shows is when the patient had their last appointment, when they're going to their next appointment, and it's called a control of the disease, whether it's good or bad or getting worse.
A Right.
Q Great. And those logs, it's important for them to be accurate because as we just discussed, the control of their disease dictates how frequently they have appointments. Is that right?
A That's right.
Q Okay. So let's go back to that report we were just discussing. And if you look at page 1, with respect to chronic

care, you can see at the bottom it says chronic care and there's a colon, it says, "Chronic care lists did not appear to be updated and there were omissions found during chart review." Is that right?

A Yes.

Q And that would be a problem because, as we just discussed, having accurate chronic care records is important for adequate patient care. Is that right?

A Yes.

Q Chronic care is also an area where medical and security staff have to work together. Right?

A For clinic, yes.

Q Right. Exactly because we just discussed that security staff have to escort patients to their appointments.

A Right.

Q Okay. I'd like to show you an exhibit that's been marked Plaintiffs' 735.

MS. MONJU: Your Honor, may I approach?

THE COURT: You may.

BY MS. MONJU:

Q Dr. Perry, this is an e-mail you sent to Tony Compton on February 3rd, 2016. Is that right?

A Okay, yes.

Q And Tony Compton is the director of private and regional facilities for MDOC?

A Yes, correct.
Q And you wrote that, "The medical staff at the private prisons is complaining that MTC personnel is constantly and repeatedly refusing to bring inmates to clinics for scheduled sick call, dental, mental health and chronic care appointments and that it's almost universal at EMCF and some other prisons." Is that right?
A Yes.
Q And you also wrote that, "Medical staff are reporting that MTC security and administration are telling them that they're be escorted off the grounds if they continue to complain." Is that right?
A Yes.
Q So in e-mail reflects that there were problems with security staff escorting patient to their appointments. Is that right?
A Yes.
MS. MONJU: Your Honor, I move to admit Plaintiffs' Exhibit 735 into evidence.
THE COURT: 735 will be received into evidence.
(Exhibit P-735 marked)
BY MS. MONJU:
Q So we touch on this a little bit, but let's briefly discuss infirmary care at EMCF. So EMCF has a unit that it refers to as the infirmary, and that's where it keeps patients who need

closed observation but not hospitalization. Is that right?
A That's right.
Q And MDOC also has a policy on infirmary care. Is that right?
A Yes.
Q That policy requires that patients have to be withing the sight or sound of a staff member?
A That's right.
Q And that means that medical staff need to see or hear patients at all times on the infirmary. Is that right?
A Yes. If there's not a call light system, then they should be within sight or sound.
Q Got it. Great. And when we say -- sorry. Strike that. So a physician or a nurse practitioner under the policies, they also have to do round at least once a day. Is that right?
A Yes.
Q And then the other nursing staff, they go do rounds depending on how severe the patients' condition is. Is that right?
A Yes.
Q Okay. And then all of that needs to be recorded in the medical record.
A Correct.
Q Great. And just to clarify, is that because if something isn't included in a medical record it's like it never happened?

A Correct.
Q And that's because doctors and nurses need to know what's happened to the patient's medical care. Right?
A Right.
Q And if they don't know that, problems can happen or treatment can be incorrect.
A Treatment could be difficult, yes.
Q Great. Okay. So we've discussed that you've never been to EMCF. Right?
A Right.
Q So you've never seen the medical unit at EMCF?
A Correct.
Q But as we've just discussed, you would agree that it wouldn't be a good design if medical staff couldn't see into the cells in the medical unit and there were no call buttons. Is that right?
A That's right.
Q And that's because we just said there has to be direct sight and sound.
A Right.
Q So are you aware that the medical unit at EMCF is arranged such that medical staff don't look at all of the cells?
A No, I heard that in my deposition in June.
Q Okay.
A But I didn't know that before.

Q Okay. So you were aware of that in June of 2017?
A Yes.
Q Okay. We're going to go back to that report. We're going to go back just a couple of times. So if you could turn to page 8 of that report. So if you look at page 8, it states that patients were not in -- I'm sorry. Thank you. So it says that, "The infirmary unit currently doesn't have a call system that is operational. And until the call system is repaired, it should be classified as observation only and an infirmary-level acuity patient should be transferred." Is that right?
A Where are you reading?
Q So if you look at the blown-up piece of text on the screen.
A Talking about the TB cells.
Q Right. If you look at the top of this page, it says, "This portion of the report concerns infirmary care."
A Okay.
Q It says here that the call system is not operational in the cells. Do you see that?
A Yes.
Q And that's a problem because, as we just discussed, EMCF medical staff can't see directly into the cells, and this says that the call system is broken.
A Yes.
Q And you first read this report at your deposition in June 2017. Is that right?

A That's right.
Q And at that time, you hadn't been aware that the call system was broken?
A Not at EMCF, no.
Q And you weren't aware at that time either whether the acuity level patients had been moved?
A Those cells that they're talking about, the TB cells, they should not be used for infirmary.

THE COURT: All right. I don't understand what we're talking about. Is this some kind of punch button that's in the shower that if the inmate taking the shower needs to call for medical help he can punch the button and then tell what he needs? Is that what --

THE WITNESS: That's part of it. And it's when you have the little light -- little button on the -- that you can punch to call a nurse. And when you punch it, the light on the outside of your room lights up. That system is broken at EMCF.

THE COURT: Is that button -- does an inmate have the button, or does he -- is the button on the wall?
A The inmate has the button.

THE COURT: So he's -- he's given a button if he has some problem that requires emergency care?

THE WITNESS: Yes, sir, yes.

THE COURT: And he will have that with him all the time?

THE WITNESS: When he's in the room he will have that button to punch or push if he needs assistance.

THE COURT: In what room?

THE WITNESS: In the infirmary room.

THE COURT: In what room?

THE WITNESS: Infirmary.

THE COURT: Okay. He's given it while he's waiting to see the nurse or doctor.

THE WITNESS: The infirmary is where -- it's almost like a little mini hospital, accept they are not sick enough to be in the hospital so they are placed in this infirmary.

THE COURT: I see. I see.

THE WITNESS: So the call light system is just like in a hospital. If they need a nurse or a doctor, then they can push the button and the light on the outside of the room lights up so that the nurse can see if somebody needs assistance.

THE COURT: Are those inmates in the infirmary in segregated cells? Are they locked up in the infirmary by themselves?

THE WITNESS: They are not necessarily locked in. The nurse has to have access to them. So they either have an officer there with the keys and then they may be locked in. If there's no officer with the keys, they're not locked in.

THE COURT: All right. Are all inmates who are placed in the infirmary -- when they were operable were all of them

given a button to --

THE WITNESS: Yes, sir.

THE COURT: -- call the nurse?

THE WITNESS: Yes, sir.

THE COURT: All right. How long has that been out of order?

THE WITNESS: I don't know. It was out in June when we did the deposition. We also have it out at Parchman, our hospital at Parchman too. It's kind of difficult to get those repaired, those systems. The one at Parchman is to so old that the parts don't exist anymore so we have to get it replaced, and that's on the list.

THE COURT: Okay. Let's don't talk about Parchman. We've got all we can handle.

THE WITNESS: Yes, sir.

BY MS. MONJU:

Q Dr. Perry, if I may, I just want to ask a couple of clarifying --

THE COURT: Excuse me. Is the nurse call system -- whose responsibility is it to repair that, if it is essential?

A That's part of the buildings and maintenance. So it would be probably -- for East it would be MDOC or MTC.

THE COURT: All right.

BY MS. MONJU:

Q Dr. Perry, if I could just ask a couple quick clarifying

questions about this. Are you aware that the beds in the infirmary are all in separate segregated cells behind locked doors with a little window?

A Yes, they are all separate sells, correct.

Q And that so this report right here that we're looking at, it's saying that there was no operational call system in those individual cells. Right?

A Right.

Q And just to be clear, inmates at EMCF are never given a button. Correct?

A For the call system they are. But since it's not working, they wouldn't be given one.

Q But they don't get like a physical button. Is that right? It's something that's built into the prison?

A I thought they got a button.

Q Okay.

THE COURT: This -- are we now talking about the -- I thought that's what we had been talking about.

MS. MONJU: Yes, Your Honor. We just -- I wanted to clarify.

BY MS. MONJU:

Q This piece of text we're showing you, this is talking about the infirmary unit as a whole. Right? It's not talking about just showers?

A This is talking about the TB cells, which are

self-contained rooms to hold negative pressure to keep TB from spreading. So apparently they were using those cells since they have full showers as part of the infirmary.

Q Right. So this is describing the infirmary, and it's just that the infirmary used to be these TB cells.

A Right.

Q Got it. Okay. Great.

THE COURT: What does TB stand for?

THE WITNESS: Tuberculosis.

THE COURT: Okay.

BY MS. MONJU:

Q To be clear the court, asked who would be responsible for fixing those call buttons. If it's true that medical staff couldn't have direct sight and sound into the medical units, and you agree that it was, it would be Centurion's responsibility to ensure that the patients in the infirmary were receiving care that was adequate and in line with MDOC policies. Is that right?

A That's right.

Q Okay. I'm going to look at a couple of more items on page 7, if we could look at that. The report states that, "Provider rounds completed and documented based on patient acuity or contractual requirement." And as we discussed, a provider round in the infirmary has to happen at least once a day. Is that right?

A That's right.
Q And based on this contract review, it says that that happened in zero of the five cases that were reviewed?
A Yes. That's right.
Q And that would -- that would be a bad thing. Right?
A Right.
Q And that's because patients in the infirmary are very ill?
A Yes.
Q And a provider needs to see them every day to make sure they don't get worse.
A Correct.
Q And, in fact, should help them get better.
A Right.
Q And on that same page, it says, "Nursing encounters documented each shift per site policy and includes vital signs." And if I'm right, that just means that a nurse did their rounds and they included vital signs to show that they checked on the patients and to reflect what the patient's current statistics were. Is that right?
A That's right.
Q That that occurred in zero of the five cases reviewed again?
A Yes.
Q And so if patients in the infirmary weren't being seen by doctors and weren't being seen by nurses, would that place the

patients in the infirmary at risk?
A It could. Depends on their clinical condition.
Q Got it. But as we discussed, you are in a serious clinical condition if you are being housed in the infirmary. Right?
A More than likely.
Q Okay. So let's move on to a completely different topic. You and I have discussed the fact that patients also need access to their prescribed medications. Is that right?
A Right.
Q And before we discuss medication, I just want to clear up some terminology. When nurses go around to the different units and hand out medication, that's called pill call. Right?
A Right.
Q Or medication administration?
A Medication call, yes.
Q And so one of the terms we're going to talk about is a medication administrations record. Does that sound familiar?
A Yes.
Q And that's called a MAR for short?
A Correct.
Q And that's just a record of which nurse distributed which medication to which patient at which time. Is that right?
A That's right.
Q Okay. Great. And all those requirements are covered in the MDOC policy upon medication administration that's on your

screen?
A Yes.
Q Okay. And under this policy, patients have to receive their medications timely and appropriately?
A Yes.
Q And so to receive medication timely, as an example, if a patient is taking the same medication ever day, they would need to get that medication around the same time every day. Right?
A Correct.
Q You would say about an hour and a half window give or take.
A Yes.
Q Okay. And when medication is given to a patient, that has to be documented. Right?
A Yes.
Q It's documented in that MAR we just discussed?
A Correct.
Q That's because it's important for caregivers to know what medications patients have taken?
A Right.
Q Okay. And Centurion also has its on policies governing health care at EMCF. Is that right?
A That's right.
Q And you reviewed those policies when Centurion became MDOC's health care vendor?
A Yes.

MS. MONJU: Your Honor, may I approach the witness?

THE COURT: You may.

BY MS. MONJU:

Q Dr. Perry, these are Centurion's policies governing health care in Mississippi?

A Yes.

MS. MONJU: Your Honor, I move to introduce Plaintiffs' Exhibit 2058 into evidence.

MR. BENTLEY: Your Honor, I have no objection. I would ask that the policies not be displayed to the gallery.

A Yes. All right. 2058 will be received into evidence.

(Exhibit P-2058 marked)

MR. BENTLEY: They're designated as confidential business information.

MS. MONJU: Your Honor, we would object to these as confidential business information. These are policies that govern how a state contractor will provide care in state prisons, and they've been approved by the state chief medical officer, and we think the public interest in how a state vendor is operating state prisons outweighs whatever plausible business there is in keeping this information confidential.

THE COURT: I will overrule the objection with the provision that they not be shown to publicly.

MS. MONJU: And that just mean publicly today, Your Honor? They won't be filed under seal I guess that's my

question.

THE COURT: Yes.

MS. MONJU: Thank you, Your Honor.

THE COURT: They will not be shown on the public screens is what I meant.

MS. MONJU: Thank you, Your Honor.

BY MS. MONJU:

Q So, Dr. Perry, under these policies, nurses working for Centurion have to work with security staff to distribute medications. Is that right?

A Yes.

Q Okay. And you said yes?

A Yes.

Q Okay. Great. And when a nurse has given a patient their medication, they have to look in their mouth to make sure they've actually taken it. Is that right?

A They should, yes.

Q And that's just an important precaution because you want to make sure patients are actually taking their medications?

A Correct.

Q And they're not for example, hoarding them?

A Right.

Q And just to be clear, the security concerns about a patient hoarding medication, might that be because it could be used to actually harm a patient if he took all his medications at one

time?
A Yes.
Q Or he could potentially sell those medications?
A Correct.
Q Or barter. So finally, under Centurion's policies, nurses are supposed to document when a patient refuses medication. Is that right?
A That's right.
Q And that's, as we said, important because you not only want to know what medications the patient is taking, but you want to know why they're refusing medication. Right?
A Yes.
Q And that's because there could be a larger issue that a doctor needs to address with a patient?
A Yes. After they refuse it twice, then the doctor has to see them --
Q Got it.
A -- to find out why.
Q Great, thank you. So we looked at a report earlier today called the pharmacy utilization report.
A Uh-huh.
Q And that showed that nearly all EMCF prisoners are on medication. Is that right?
A Right.
Q So medication administration is an important issue at EMCF.

Is that right?
A It is.
Q So given the importance of medication administration at EMCF, were you aware that most of the policy requirements that we just discussed are not consistently followed at EMCF?
A No.
Q Okay. So, for example, are you aware that logbooks at EMCF reflect that medication administration doesn't occur at the same time every day?
A No.
Q Were you aware that that contract monitor we discussed who monitors safety and security, she identified problems with pill hoarding and nurses not making sure that patients were taking their medications in over one third of her weekly reports from September 2014 through June 2016?
A Was not aware of that, no.
Q And were you aware that nurses at EMCF are consistently failing to meet standards regarding MAR documentation?
A No. We have.

MR. BENTLEY: Your Honor, I'm going to object to this. I'm not sure what this information is from, and I have no -- I don't think Dr. Perry's testified that she has any knowledge of the documents from which this information is coming.

MS. MONJU: Your Honor, I was just about to ask about a document.

THE COURT: Well, ask her if she's aware of this document and so forth. Lay your foundation, and then you may ask your question.

MS. MONJU: Yes, Your Honor.

BY MS. MONJU:

Q I was actually going to ask about that February report we've been looking at.

A Okay.

Q And so if you look at the first page of that report, it states that, "This contract compliance review noted many missing documentation for medication administration." Is that right?

A Where are you reading?

Q So it highlighted on your screen. It's that first line in the bullet regarding medication management and MAR review. It states that, "Review noted many missing documentation for administration." Is that right?

A Yes.

Q It also lists several other problems that expired medications were found in medication room. Is that right?

A Yes.

Q There were loose narcotics found in a refrigerator. Is that right?

A Yes.

Q There were controlled substances that were placed for

destruction in a sealed envelope, but they were not maintained on the count. Is that right?

A Yes.

Q So we discussed how it's important for medical and security staff to work together. That's also important for medication administration. Is that right?

A Yes.

Q And that's because security staff accompany nurses on pill call?

A Correct.

Q But limited security staffing has been an issue at EMCF with respect to pill call as well. Is that right?

A Not in recent months.

Q Okay. Well, for starters, let's look at this February 2017 report again, and it's on the first page. And this states that -- I'm going to get that highlighted for you. "It was reported that security staff is very short and impacts medical staff safety as well as ability to have access to patients for provision of care. At times there is no officer at the med cart during med pass in the pods." Is that right?

A Yes, that's what this report says.

Q And so this report says two different things. This is saying that because of the shortage of staff, medical staff safety was an issue.

A Yes.

Q And also that officers were not at the med cart during med pass. Does that mean that officers weren't on pill call?
A Right.
Q Okay. So let's look at Plaintiffs' Exhibit of 668. Your Honor, may I approach the witness?
THE COURT: You may. Is this 668?
MS. MONJU: Yes, Your Honor.
BY MS. MONJU:
Q So, Dr. Perry, this is an e-mail Paxton Paige sent to you on July 6, 2015. Is that right?
A Yes.
Q And Paxton Paige at least at the time was an employee in your office who monitored contract compliance at EMCF. Is that right?
A Yes. He's health service administrator in my office.
Q Great. So does he still monitor EMCF?
A Yes, he does.
Q Okay. And what does he do when he monitors EMCF?
A You mean --
Q What are his job responsibilities?
A He ensured or inspects the clinic to ensure that they're following correct protocols and policies.
Q And to -- does that -- strike that. Let's talk about this e-mail. So in this e-mail, Paxton Paige wrote that he and Dennis Gregory -- and that's your mental health director.

Right?
A Correct.
Q He and Dennis Gregory had visited EMCF on July 3rd, 2015, and they wrote that, "The nurses voiced concerns about the lack of security staff during med pass on segregated units and that this has been on ongoing problem. Is that right.
A Yes.
Q So Mr. Paige wrote in a July 2015 e-mail that security staff -- limited security staff for pill call had been an ongoing problem as of July 2015. Is that right?
A That's what the nurses reported to him, yes.
Q And that continued to be an issue in the February 2017 report we just reviewed?
A Yes.
Q Thank you. Just one last e-mail to look at about pill call, Your Honor, if I may approach the witness.
THE COURT: Yes.
MS. MONJU: Apologies, your Honor. I need to move to admit Plaintiffs' Exhibit 668.
THE COURT: 668 will be received in evidence.
(Exhibit P-668 marked)
MS. MONJU: Thank you, Your Honor.
BY MS. MONJU:
Q Dr. Perry, this is an e-mail that already been entered into evidence, but it's an e-mail that Tony Compton sent to you and

Warden Hogans and others on July 2, 2015. Is that right?

A Yes.

Q And Mr. Compton wrote, "I was just informed that while conducting pill call on the segregation unit at EMCF the offenders popped their cell doors and came out while nurses from Centurion medical were passing out medication." Is that right?

A Yes, that's what this says.

Q And so that means that prisoners could unlock their doors while nurses are on the unit?

MR. BENTLEY: Objection, Your Honor. I don't think Dr. Perry can testify what the sender of this e-mail meant.

THE COURT: I think it's pretty clear what it meant. I sustain the objection.

MS. MONJU: Your Honor, just to be clear, Dr. Perry is allowed to testify that this seems to mean that plaintiffs -- prisoners were come out of their doors and unlocking their cells? Apologies. I missed the ruling.

THE COURT: Doesn't the e-mail say that they unlocked their doors and came out on the unit? That's what it says. She doesn't know any more than that.

MS. MONJU: Understood, Your Honor.

BY MS. MONJU:

Q Dr. Perry, if prisoners were able to unlock their doors and come out onto the unit, that could be something that would

frighten the nurses, I imagine. Is that right?
A I imagine it would, yes.
Q And that would be a problem because if the nurses are scared, they may not want to conduct pill call in the segregation units?
A Yes.
Q Thank you, Dr. Perry. Okay. Dr. Perry, did we just discuss various elements -- or essential elements of a correctional health system? Isn't it right that Centurion send you monthly reports about the adequacy of its provision of these essential elements of a correctional health care system?
A They send me daily reports.
Q Great. And those reports are called continuous quality improvement reports?
A Yes.
Q And they are sent to you once a month?
A Yes.
Q By a Centurion employee named Kathy Hogue?
A Kathy or Brenda Scott.
Q Kathy or Brenda. Okay. And those reports are broken down by facility. So you can see individual information for EMCF. Is that right?
A Right.
Q I'd like to show you these CQI reports. And, Dr. Perry, just to be clear, "CQI" is short for continuous quality

improvement. Is that right?

A Yes.

Q And I'm going to show you several of the CQI reports that cover July 2016 to December 2017.

MS. MONJU: Your Honor, if I may approach the witness?

THE COURT: You may.

MS. MONJU: Thank you.

BY MS. MONJU:

Q So, Dr. Perry, I just handed you 18 CQI reports. These are CQI reports for July 2016 through December 2017.

A Okay.

Q This is the data you received from Centurion?

A Yes.

MS. MONJU: Your Honor, I move to admit Plaintiffs' Exhibit -- and it's a bit of a list -- 440, 441 --

THE COURT: Excuse me. This is another one of those instances where you do not need all of this in the record, and there's no need in burdening the clerk for it.

MS. MONJU: Your Honor, I think if defendant would agree, we are happy to confer with defendants close to or at the end of trial to determine what pages can be removed from the record, and I think that would make the pile of documents we've fortunate dumped on you a lot smaller.

THE COURT: You can do that after you interrogate the witness during the noon hour. And let me know, and I'll admit

whatever is necessary into the record. But there's no need in backwards -- for me to admit all of these pages in the record.

MS. MONJU: Your Honor, if I may --

THE COURT: How many pages are in each report?

MS. MONJU: It's about 50 page a report. But if I may, these are the sole monthly data --

THE COURT: How many pages are in each report?

MS. MONJU: It's about 40 to 50 pages, Your Honor.

THE COURT: And how many pages are necessary to the point that you're going to make?

MS. MONJU: So, Your Honor, we actually have several summary exhibits which will show you a lot of the data that is spread across these reports because it's the only sort of broken-down data that MDOC receives every month from Centurion, and it's going to show you that across the year of 2017 a lot of the metrics are very bad. And we do need, unfortunately, a good bit of those reports to show that to the court. But we plan to summarize it in exhibits so it's easier to see. But it would be the underlying information for the exhibits.

THE COURT: Under those condition, there's no need for me to admit all of this into the record now or at any time. But you may summarize it and pull out particular pages or something. But this witness is not going to testify about every one of those pages, and I'm not going to look at every one of those pages so there's no need to introduce them into

evidence.

MS. MONJU: Your Honor --

THE COURT: You may continue with that comment.

MS. MONJU: Okay. Understood. Your Honor, just to be clear, when we come back with fewer pages, I should just move to admit these exhibits after lunch?

THE COURT: Yes.

MS. MONJU: Thank you, Your Honor.

BY MS. MONJU:

Q So, Dr. Perry, these reports measure Centurion's delivery of health care at EMCF. Is that right?

A The CQI, continuous quality improvement, does not measure the overall health care. It measures problem areas --

Q I see.

A -- and tracks those problem areas.

Q So these reports show essentially areas that Centurion may need to fix at EMCF. Is that right?

A Yes.

Q And this concerns data that Centurion -- or issues that Centurion has needed to fix in 2016 and 2017. Is that right?

A Yes.

Q And that's as recently as December 2017. Is that right?

A Yeah, I think there's one for December, yes.

Q Okay. So I'd like to discuss the report for November 2017.

MS. MONJU: And, Your Honor, these documents, like

several of the documents we received from defense counsel, is also marked as confidential. For the same reasons we don't believe the other reports that have been admitted into evidence are confidential, these contain data about a public contractor providing public services at a public prison, and we do think the public right of access to that information trumps any confidentiality interest Centurion could have.

MR. BENTLEY: Your Honor, these are Centurion's proprietary continuous quality improvement reports. They've developed these reports. They're the type of thing that a competitor would like to see, and we would object. I understand the open court issue. I object to these being shown on the public monitors.

THE COURT: I've already said we're not going to show them on the monitors. Then you can raise your objections when she has culled out the pages that she wishes to admit into evidence.

MR. BENTLEY: Thank you, Your Honor.

MS. MONJU: Thank you, Your Honor.

BY MS. MONJU:

Q So, Dr. Perry, just to be clear, these reports cover some of the things we just discussed such as sick call, prisoner access to care in segregation, mental health care and medication administration. Is that right?

A Yes.

Q And if we look at this cover page of the November 2017 report, and you can look at line 1, and it says, "Threshold for each indicator is 90 percent or above. Please strive for 100 percent." Is that right?
A Yes.
Q And that means that a passing grade is 90 percent, but you should aim for 100 percent? Is that right?
A That's correct.
Q Great. And just to be clear since you're looking at the reports, all the reports include that same language. Is that right?
A That's right.
Q Okay. So let's turn to some of these metrics. If you look at page 2 of this report, this states that the number of days in November of 2017 was 30. Is that right?
A Yes.
Q And it states that the number of days in November 2017 in which sick calls were picked up was eight days. Is that right?
A Yes.
Q And so we discuss that sick calls need to be picked up every single day. Is that right?
A That's right.
Q That's because if patients have serious concerns, the doctor needs to seem them. Is that right?
A Yes.

Q For 22 days in November 2017, it appears that sick call were not picked up and logged?
A It appears so.
Q So if we turn to page 5 and 6 of this report, this shows several metrics for measuring sick call. Is that right?
A Yes.
Q And again we discussed that a passing grade is 90?
A Yes.
Q But this shows several metrics below 90 percent. Is that right?
A Yes.
Q For example, sick calls picked up and logged daily is only at 27 percent.
A Correct.
Q Whether a sick call is triaged face to face with a nurse in one day of receipt is just at 84 percent?
A Yes.
Q And whether inmates being referred to providers for sick call are seen -- within seven calendar days, that's just at 60 percent. Right?
A Right.
Q And that means that patients who are filing sick call requests at EMCF are frequently not being seen as quickly as they're supposed to be seen. Is that right?
A That's right.

Q These results aren't very good, are they?
A They are not.
Q Dr. Perry, I will represent to you that this report is not an outlier. There are similar results from Centurion in a number of these CQI reports, and I'm going to show you an exhibit summarizing those results.
MS. MONJU: Your Honor, if I may approach the witness?
THE COURT: You may.
MR. BENTLEY: Your Honor, before there are any questions about this exhibit, I'd like to make an objection. As I understand this -- well, maybe, Erin, you can describe it.
MS. MONJU: Sure.
MR. BENTLEY: Then I'll make my objection.
MS. MONJU: So in the interest of efficiency, Your Honor, because we are trying to streamline this as much as possible, we have looked at all of the 2017 CQI reports that Dr. Perry just testified that she received. And for several of the metrics, we've simply compiled the results for those CQIs.
So, for example, we discussed with Dr. Perry several times today that it's required that patients who are referred to a doctor for sick call see him within seven days. Instead of trooping through every single one of the CQI reports, we just compiled the results here. And under 1006, we believe that's an appropriate summary exhibit so we don't have to talk about all 12 reports.

MR. BENTLEY: And I understand the need for efficiency, Your Honor. I have two concerns with this. First is, as I understand it, it's been prepared by attorneys. So there's no one here who can testify about the methods and the accuracy of the information that's in here, which is required, as I understand it under Rule 1006.

And, second, this is not an accurate summary. This is a pullout of one piece of these large reports with no information about the sample size, which is quite small. And it suggests to this court -- and I mean small whether you're talking about 100 percent or 10 percent. It suggesting to this court in a misleading way that this particular metric is not being met.

MS. MONJU: Your Honor, if I may.

THE COURT: Just a minute. My understanding is lawyers have pulled out the same information from each of these 15 reports and has -- whatever that is and has put the results of that in here rather than having to pull it out with the testimony in each instance. It's in effect asking the defense to agree to this summary exhibit. Not to agree to it, but to agree that the summary exhibit correctly summarizes what is being shown and it has come out of these 15 different reports. Is that correct?

MS. MONJU: Yes, Your Honor.

THE COURT: It would save an awful lot of time to do

it that way. I suggest that if you are concerned about accuracy of it, we can let you during the noon recess have the exhibits and have this summary exhibit and go over it.

MR. BENTLEY: Well, I guess what -- I would modify my objection then and not object to the use of this as a demonstrative. I was object to it coming in as evidence because I do not think it's proper under Rule 1006. But I understand Your Honor's point. You don't want to wade through report after report, and I can examine the witness about the sample size.

THE COURT: All right?

MS. MONJU: Your Honor, if I may, I think defense counsel just made the best argument for admitting these exhibits as possible. 1006 permits the entry of exhibits that summarize the contents of voluminous writings. As we just discussed, that's several hundreds pages of records, and that's why we prepared this report both so we would not have to troop through each of those reports and so the court would not have to go through all of them in reviewing the record in this case.

THE COURT: I'm going to overrule the objection. I will, however, allow the defendant during the noon hour to check however you wish on -- what number do you plan to give this document entitled, "Patients Not Timely Seen by Provider After Submitting Sick Call Requests"?

MS. MONJU: Your Honor, we do anticipate giving a few

of these to the court. But for this one, it would be 2823.

THE COURT: I don't understand what -- what's -- what are the numbers you just gave me?

MS. MONJU: Plaintiffs' Exhibit 2823.

THE COURT: All right. Yes, sir.

MR. BENTLEY: Your Honor, just to be clear, my objection is not -- I'm not questioning the accuracy of these statistics. I'm challenging on the misleading presentation that is being made to the court through this demonstrative exhibit. If you were looking at the report itself, you was see statistics, and you would see sample size, and you would appreciate the insignificant sample size, I guess is what I would say. But that's my objection. I'm not saying that they inaccurately compiled it.

THE COURT: All right. Hand me one of the monthly reports --

MS. MONJU: Yes, Your Honor.

THE COURT: -- please. Do you have the one corresponding to the -- it's a year-long compilation.

MS. MONJU: Your Honor, I've just handed up the December 2017 CQI report, which is the most recent report defense counsel produced to plaintiffs.

THE COURT: All right. I've been handed the one complete report for that particular month. My initial assessment of it is that it contains an enormous amount of

information for each month which would take me hours to try to understand and process. And a lot of the information would not be useful to this case.

I can see that the summaries reduce what that would require to one-page documents on certain of the information, included, I presume, in each of the monthly reports. I do not see where that summary of the information is misleading at all or not properly drawn out of the total exhibits themselves. The total exhibits are available to the -- to the defense to add anything to the discussion of the issue that you wish.

I this think is a reasonable way to present the information to the court so I will overrule the defendant's exhibit -- objection to -- how are you going -- are you going to -- are you going to give me one, or are you going to give me 15 of these summaries?

MS. MONJU: I think it will be somewhere in between, single digits Your Honor. I think about seven of these.

THE COURT: All right. As far as the exhibits on the screen which is what?

MS. MONJU: Plaintiffs' Exhibit 2823.

THE COURT: Which is the summary for --

MS. MONJU: Whether patients were seen by a provider for sick call within seven days.

THE COURT: And on what date?

MS. MONJU: And this covers January 2017 through

December 2017.

THE COURT: It covers a whole year?

MS. MONJU: It does.

THE COURT: All right. I'm going to allow the information to be presented in this form to the court. If you want to introduce all of the underlying -- the defendants want to introduce all of the underlying exhibits, you may do so. I hope you don't, but you may. All right.

MS. MONJU: Should I go ahead, Your Honor?

THE COURT: Excuse me?

MS. MONJU: Should I move on, Your Honor, to discussing the exhibit.

THE COURT: Yes. Have you moved 2823, the summary exhibit, into evidence?

MS. MONJU: I will do so now, Your Honor. I move to admit.

THE COURT: All right. That exhibit is received into evidence with the provisions and exceptions -- not exceptions, but with the accommodation to the defendants if he wants to do that.

MS. MONJU: Thank, Your Honor.

THE COURT: All right.

(Exhibit P-2823 marked)

BY MS. MONJU:

Q So, Dr. Perry, we just discussed that Centurion did not

have a very good score for patients seeing a provider within seven days for a sick call for November 2017. And I represent to you that this exhibit summarizes the scores that Centurion received on that metric from January 2017 to December 2017.

MR. BENTLEY: Your Honor, I'm going to object to characterization of scores received. I do not think that's what this document is doing.

THE COURT: Sustained.

BY MS. MONJU:

Q Dr. Perry, I'll rephrase. As we discussed on the first page of this report, the thresholds for each indicator is 90 percent or above. That's right?

A Yes.

Q And so for each indicator here regarding providers seeing patients within seven days, based on this exhibit, Centurion scored lower than 50 percent on these indicators for half of 2017. Is that right?

A Yes.

Q And it met the 90 percent threshold in only one month, December 2017. Is that right?

A Yes.

Q Thank you, Dr. Perry. So we're going to look at the December 2017 CQI reports that I handed you, and we're going to look at pages 36 and 37 of that report. So, Dr. Perry, these are indicators for medication administration at EMCF. Is that

right?
A Yes, it is.
Q These indicators show that four are under the 90 percent threshold. Is that right?
A Yes.
Q So, for example, are all doses documented appropriately is at 4 percent?
A Correct.
Q And that's an important indicator because, as we've discussed, it's important to document medication patients are receiving appropriately. Right?
A Yes.
Q And that's because doctors need to know what medication their patients have taken?
A Correct.
Q And if you look at if there are missed doses, is the back of the MAR documented appropriately, that's at zero percent. Is that right?
A Yes.
Q And as we discussed, that's important because, again, medication records need to be accurate. Is that right?
A Yes. That just tells -- the nurse tells who she is and why the dose was missed on the back.
Q As we discussed, doctors need to know those reasons because they need to know if after two times a patient has missed a

dose why that's happening, and they need to see them.
A Right.
Q And so, Dr. Perry, the overall compliance on medication administration in this December 2017 report is 49 percent. Is that right?
A That's right.
Q That's not a very good performance, is it?
A That's why that's included in this report. The CQI is for problem area.
Q Because they need to get better at this. Correct?
A Correct.
Q So, Dr. Perry, I will represent to you that similar scores also appear in other CQI reports, and I'm going to show you an exhibit marked Plaintiffs' 2840.

MR. BENTLEY: Your Honor, if I may just reiterate and ask for a continuing objection with the understanding that you've already ruled on all of these demonstratives that are pulled from these reports.

THE COURT: You may have a continuing objection to them. Thank you.

MR. BENTLEY: Thank you.

BY MS. MONJU:
Q So, Dr. Perry, this exhibit summarizes all of the scores for -- all of the indicators for 2017 for whether missed doses were documented appropriately on a MAR. And as you can see,

Centurion has failed to meet the 90 percent threshold on every -- on this indicator every single month that it was documented. Is that right?

A According to this, yes.

Q And it's right that the highest performance Centurion posted was 17 percent in April 2017?

A Yes.

MS. MONJU: Your Honor, I move to admit this exhibit as Plaintiffs' 2840.

THE COURT: With the objections previously voiced, 2840 is received into evidence.

MS. MONJU: Thank, you, Your Honor.

(Exhibit P-2840 marked)

BY MS. MONJU:

Q So, Dr. Perry, we're going to look back at that 2017 report, pages 16 and 17. These are metrics related to access to health care in segregation. Is that right?

A Yes.

Q This report also shows three metrics under the 90 percent threshold.

A It does.

Q And, for example, one of those metrics is medical services completed and documented segregation rounds at least three times per week. Is that right?

A Yes.

Q And that just means, as we discussed, that seg rounds weren't being completed. Is that right?
A That means they -- a nurse went through the segregation unit to ensure that the inmates in the unit didn't need any medical assistance.
Q Right. And this report shows that those segregation round were only being performed at least three times per week 32 percent of the time. Is that right? And we have that highlighted on the screen for you if it's easier to see.
A Okay. Yes.
Q And, Dr. Perry, just to clarify, we discussed that segregation round actually need to happen every day. Is that right?
A Yes.
Q And so, Dr. Perry, there are similar scores in other CQI reports. I'm going to show you an exhibit listing all of the scores for this indicator for 2017. So, Dr. Perry, as summarized on this exhibit, in 2017 EMCF met this indicator requiring medical round in segregation at least three time per week in only two months. Is that right?
A Above the 90 percentile, yes.
Q Thank, Dr. Perry.
MS. MONJU: I move to admit Plaintiffs' Exhibit 2818.
THE COURT: 2818. What does CQI mean?
MS. MONJU: It stand for continuous quality

improvement, and that's just the name these reports have.

THE COURT: 2818 will be received into evidence.

(Exhibit P-2818 marked)

BY MS. MONJU:

Q And, Dr. Perry we're going to go back to that December 2017 report, page 32. These show metrics for mental health care. Is that right?

A Yes.

Q This report shows two metrics under 90 percent?

A It's difficult to tell. It look like -- okay, thank you.

Q I apologize Your Honor. Dr. Perry, this actually only shows one metric as it relates to EMCF under 90 percent, and that's whether inmates on the case load log are seen by mental health professionals in group or office visit every month. Is that right?

A That's right.

Q And that's at 46 percent?

A Yes.

Q And that just measures whether or not prisoners who are on the mental health case load are receiving group or individual therapy every month. Is that right?

A Right, whether they're seen by the mental health professional at least monthly or every 30 days.

Q And that's required under MDOC policy and the Centurion contract. Is that right?

A That's right.

Q And, Dr. Perry, I will represent to you that similar scores also appear in other CQI reports. I'm going to show you Exhibit 2818. This is a compilation of scores for 2017 concerning whether prisoners on the mental health case load were seen by a mental health professional every month. And, Dr. Perry, as you can see Centurion failed to meet the 90 percent threshold every single month in 2017 that it was measured for whether patients were being seen every month. Is that right?

A Yes.

MS. MONJU: Your Honor, I move to admit this exhibit into evidence.

THE COURT: Is there any way that the defendants could stipulate this line of documents?

MS. MONJU: Your Honor, I'm actually at a good breaking point, if that just -- to just put that on the record.

THE COURT: I'm not talking about a breaking point. I'm trying to get some stuff entered into by agreement so we don't have to do it page by page.

MS. MONJU: Understood.

THE COURT: Any way to -- recognizing you have objections to it, is there any way that you could stipulate subject to those objections that all of this, in effect, statistical data can be received?

MR. BENTLEY: Yes, Your Honor. I've reviewed all the demonstratives that Ms. Monju plans to enter. And subject to my objection, I don't have any difficulty stipulating to those documents.

THE COURT: Why don't we take a lunch recess and see if you can't just get all this stuff in one stack and present it to the clerk and have a stipulation that exhibits so and so are received into evidence and the doctor does not have to testify and I don't have to listen to all of that --

MS. MONJU: Yes, Your Honor.

THE COURT: -- foundation for these exhibits.

MS. MONJU: Absolutely, Your Honor. If I may -- obviously we will do whatever the court requires. But because we would like to go through these CQI reports and take the pages out and also consult with defense counsel about those exhibits, if it would be possible to have a slight longer lunch break, I think that would be helpful in getting that done. But we'll do obviously whatever the court requires.

THE COURT: We're going to recess for an hour. Y'all used up an hour and a half of my time yesterday --

MS. MONJU: Absolutely, Your Honor.

THE COURT: -- by recessing early so --

MS. MONJU: Yes, Your Honor.

THE COURT: -- you will have to get it done.

MS. MONJU: We will.

THE COURT: All right. We'll stand in recess until 15 minutes after 1.

(Lunch Recess)

CERTIFICATE OF REPORTER

I, CHERIE GALLASPY BOND, Official Court Reporter, United States District Court, Southern District of Mississippi, do hereby certify that the above and foregoing pages contain a full, true and correct transcript of the proceedings had in the aforenamed case at the time and place indicated, which proceedings were recorded by me to the best of my skill and ability.

I certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

This the 21st day of March, 2018.

s/ *Cherie G. Bond*
Cherie G. Bond
Court Reporter